

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ANTHONY RAY DAILEY, #60533080	§	
VS.	§	CIVIL ACTION NO. 6:07cv281
UNITED STATES OF AMERICA	§	

ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

The above-entitled and numbered civil action, a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255, was heretofore referred to United States Magistrate Judge Judith K. Guthrie. On October 14, 2008, this Court adopted the Magistrate Judge's Report and Recommendation to dismiss the action with prejudice and entered final judgment accordingly. The Petitioner subsequently appealed to the United States Court of Appeals for the Fifth Circuit, which denied a certificate of appealability by order issued October 5, 2009. Petitioner then returned to this Court, post-judgment and post-appeal, and on October 4, 2010, filed a Motion Challenging the Integrity of the Proceeding Pursuant to Fed. R. Civ. P. 60(b) (docket entry #100); a Motion to Refer Case to Magistrate Judge John D. Love and District Judge Leonard Davis (docket entry #103); a Motion for Leave to File Excess Pages in the Rule 60(b) Motion (docket entry #101); a Motion for Bail (docket entry #102); and a Motion to Appoint Counsel (docket entry #104).


Magistrate Judge Guthrie issued a new Report and Recommendation on October 15, 2010, in which she presented proposed findings of fact and recommended that the Motion Challenging the Integrity of the Proceeding (docket entry #100) and the Motion to Refer Case, which she construed as a motion to recuse herself and the undersigned District Judge (docket entry #103) be denied on

their merits. She then recommended that the remaining motions for Leave to File Excess Pages (docket entry #101), for Bail (docket entry #102) and to Appoint Counsel (docket entry #104) be denied as moot. No objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court. It is therefore

ORDERED that Petitioner's Motion Challenging the Integrity of the Proceeding (docket entry #100) and the Motion to Refer Case, construed as a motion to recuse Magistrate Judge Guthrie and District Judge Schneider (docket entry #103) be **DENIED**. It is further

ORDERED that Petitioner's Motions for Leave to File Excess Pages (docket entry #101), for Bail (docket entry #102) and to Appoint Counsel (docket entry #104) be **DENIED** as moot.

SIGNED this 8th day of November, 2010.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE